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By ECF

July 14, 2022

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. Defendants write in response to plaintiffs' letter to the Court dated July 8, 2022, (Dkt. No. 642).

Plaintiffs claim in their letter that they do not know the identities of most of the bike officers who were present on June 4, 2020, at the Mott Haven protest. This is simply not the case. In May 2022, defendants produced to plaintiffs the BWC footage and audit logs obtained from NYPD for the bike detail officers who were present at the June 4, 2020, Mott Haven protest. Defendants produced a set of detail rosters thought to be detail officers just in bike squads in Mott Haven and one of the rosters included Sgt. Durkin. Sgt. Durkin was on a bike squad on June 4, 2020, but he was present at another protest location – "BLM – Floyd Bike Detail" – and was entirely inadvertently included with the Mott Haven detail rosters. Defendants were not aware of this until his activity log for that day was produced, and it was discovered that he was in fact at a different protest location. When we were directed to his activity log, we realized the mistake. We had no reason to know that he was at another location.

Defendants did not choose Sgt. Durkin for a deposition in order to waste anyone's time. Defendants' selection of this deponent from the 100+ names on plaintiffs' list was random and was part of defendants' effort to schedule depositions. Sgt. Durkin's deposition was cancelled when it was determined he was not at the June 4, 2020, Mott Haven protest.

Further, in order to confirm that the video requested was produced to plaintiffs, defendants contacted NYPD's BWC Unit and are retracing what was done pertaining to

plaintiffs' request. First, defendants have contacted the Commanding Officer who oversaw the bike details on June 4, 2020, at Mott Haven in order to ensure that the officers on the detail rosters that the BWC Unit used to provide the requested video were in fact all of the officers on the bike squad at Mott Haven. We expect that he will be able to confirm this by early next week. Second, defendants will verify with NYPD's BWC Unit that video footage and audit logs pertaining to the footage for the officers confirmed by the Command was provided to the Law Department for production to plaintiffs. This process requires that the BWC Unit re-send all of the video and audit logs that they previously provided, and the E-discovery team will then have to match those to the BWC footage and audit logs that were produced. This is the only way to confirm that plaintiffs did in fact receive all of the BWC footage and audit logs pertaining to the bike squad officers present at Mott Haven on June 4, 2020, who activated their body-worn cameras on that date.

Finally, defendants can confirm that Sgt. Duane Barnes was a supervisor on a bike detail at Mott Haven. Defendants have also contacted him to determine his availability for a deposition and are waiting his response. We do not believe that his deposition can be conducted before July 25, 2022.

In light of the foregoing, defendants request to be given until July 28, 2022, to: (1) verify that the bike officers at Mott Haven have been properly identified; (2) reproduce the bike detail rosters after confirmation from the Commanding Officer who oversaw the bike detail at Mott Haven; (3) verify that the BWC footage and audit logs for these officers has been produced; and (4) to obtain the availability for Sgt. Duane Barnes' deposition and set a date for his deposition.

Thank you for your consideration of this matter.

Respectfully submitted,

Amy Robinson s/
Amy Robinson
Senior Counsel

Cc: ALL COUNSEL (via ECF)